

### **REMARKS**

This paper in response to the official communication dated June 20, 2011, wherein claims 1-3, 7, and 10-13, as amended January 24, 2011, were withdrawn from consideration and not entered.

As such, this paper substitutes for the response that accompanied the filing of a request for continued prosecution (RCE) on January 24, 2011, and is presented in response to the final official action dated October 26, 2010, wherein (a) claims 1-3, 7, and 10-12 were pending, (b) claims 1-3, 7, 10, and 11 were rejected as being obvious over Patel in view of Kirckof, and (c) claim 12 was rejected as being obvious over Patel in view of Kirckof and Schmidt.

By the foregoing, claims 1-3, 7, 10, and 12 have been amended, and new claims 13-19 have been added. As a result, claims 1-3, 7, and 10-19 are pending and at issue, with claims 1 and 14 being independent.

Claims 1-3, 7, 10, 12, and 13 are directed to a hydrogen peroxide plasma-sterilization method using a plasma-sterilization indicator instead of to a plasma-sterilization indicator, and new claims 14-19 are directed to a plasma-sterilization indicator. The plasma-sterilization indicator as recited in claims 14-19 is defined identically as the plasma-sterilization indicator recited in claims 1-3, 7, 10, 12, and 13.

Entry and consideration of all claims, as amended, are solicited.

Claims similar to amended claims 1-3, 7, and 10-13 were presented in the response of January 24, 2011, in place of prior claims directed to an indicator. In the official communication of June 20, 2011, the amended claims submitted January 24, 2011, were withdrawn from consideration and not entered on the basis that the newly-submitted claims were directed to an invention that is independent and distinct from the invention previously claimed. This stated rationale for restriction was an allegation that the [previously claimed] indicator would not necessarily need to be used in the newly-claimed method.

This basis for restriction is respectfully traversed, and reconsideration is requested with respect to the claims submitted herewith.

Contrary to the rationale stated in the June 20, 2011, communication, an indicator must be used in the claimed method. In the present claims, the indicator recited in independent method claim 1 is identical to the indicator claimed in independent claim 14. Given this fact, the articulated basis for restriction cannot properly support restriction between the claims presented herewith.

Notably, no prior restriction requirement in this case that could apply here to the method claims exists.

Accordingly, entry and consideration of the foregoing amendments is proper, and is solicited.

Support for this amendment can be found in the second line of the paragraph under the heading FIELD OF THE INVENTION on page 1, the first full paragraph on page 5, the first full paragraph on page 6, and the third and fourth full paragraphs on page 9 of the present specification.

Claim 10 has been amended to depend from amended claim 1, and new claim 13 more specifically defines the adsorption indicator and the metal chelate-titration indicator.

Support for new claim 13 can be found in lines 20 to 22 on page 5, and lines 3 to 7 on page 6 of the present specification.

The obviousness rejections of the claims are respectfully traversed. Reconsideration of the application, as amended, is solicited.

The examiner rejects claims 1-3, 7, 10 and 11 as being obvious over Patel (WO 00/61200) in view of Kirckof (US 6,488,890), and rejects claim 12 as being obvious over Patel in view of Kirckof and Schmidt (US 2002/0155224).

In the invention, discoloring occurs according to an entirely different mechanism from that of Patel. In the invention, a product formed in a reaction between one or more compounds (A), the organic metal compound (B) discolors into a different color in a particular pH range owing to a pH change caused by hydrogen peroxide and an oxidative force in plasma treatment, and a metal ion which is a cation participates in the reaction.

In the official action, the examiner recognizes that in Patel, the reactive species are bromine anions, whereas in the invention, the reactive species is a cation (metal ion). However, the amended claims do not recite a particular ion as a reactive species; therefore, independent claim 1 has been to define a hydrogen peroxide plasma-sterilization method, and to distinguish the reaction mechanism of the invention from that of Patel.

In particular, Patel does not disclose:

"a hydrogen peroxide plasma-sterilization method comprising:

using a plasma-sterilization indicator comprising: one or more compounds (A) selected from the group consisting of adsorption indicators and metal chelate-titration indicators; an organic metal compound (B); and a polyvalent alcohol (C);

forming a product via a cation in a reaction between the one or more compounds (A) and the organic metal compound (B); and

discoloring the product by hydrogen peroxide plasma-sterilization,

wherein the polyvalent alcohol (C) increases a discoloration speed of the discoloring of the product."

Further, in Patel, reactive species, which are anions such as a bromine anion, a chlorine anion, or the like, are generated from an activator by exposing the activator to oxidative plasma. The generated reactive species attach to the substrate

dye, and thereby a color changeable indicator is produced, and discoloration based on the color changeable indicator occurs effected with a pH, as shown in the last line on page 6 to line 6 on page 7 of Patel.

Furthermore, aluminum acetylacetonate is used as a source for generating acetylacetonate anions in Patel. In contrast, in the invention, aluminum acetylacetonate is used as a source for generating aluminum cations.

The color change mechanism of Patel is also entirely different from that of the invention. Therefore, even if the same dye and aluminum chelate as the invention were to be used in Patel, a compound thereof after a color change would be entirely different from that of the invention.

Kirckof (US 6,488,890) describes a sterilization indicator system that allows a sterilization cycle to be monitored without the need for a user to subjectively distinguish between color, quality, or intensity of display patterns. However, the indicator does not fall within the scope of the invention, and an organic metal compound (B) defined in the specification and the reaction mechanism discussed above are not taught therein. Further, the concept of enhancing discoloration speed by a glycol solvent in the plasma-sterilization indicator composition is also not taught in Kirckof.

Schmidt (US 2002/0155224 A1) describes a thermal ink jet ink composition for textile media, which comprises a water miscible organic solvent, water, and a dye. However, a plasma-sterilization indicator itself or a plasma-sterilization indicator comprising one or more compounds (A) selected from the group consisting of adsorption indicators and metal chelate-titration indicators; an organic metal compound (B); and a polyvalent alcohol (C), in addition to the reaction mechanism or the concept of enhancing discoloration speed by a glycol solvent discussed above are not taught or suggested in Schmidt.

Thus, Kirckof and Schmidt neither teach nor suggest the subject matter of the invention, especially the technical features discussed above, and do not

compensate for the gap between the technical features of the present invention and that of Patel.

In consideration of the above, even if the teachings of Patel were considered in view of Kirckof, or in view of Kirckof and Schmidt, a person skilled in the art could not have accomplished the subject matter of the invention. Accordingly, the invention is not obvious over the disclosure of Patel in view of Kirckof, or in view of Kirckof and Schmidt.

For all the foregoing reasons, all claims 1-3, 7, and 10-19 are of proper form and scope for allowance, and such action is solicited.

Should the examiner wish to discuss the foregoing or any matter of form in an effort to advance this application toward allowance, she is urged to telephone the undersigned at the indicated number.

July 5, 2011

Respectfully submitted,

By /James P. Zeller, Reg. No. 28,491/

James P. Zeller

Registration No. 28,491

MARSHALL, GERSTEIN & BORUN LLP

233 South Wacker Drive

6300 Willis Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant